

2020 No. 926

LOCAL GOVERNMENT, ENGLAND

POLICE, ENGLAND AND WALES

REPRESENTATION OF THE PEOPLE

**The Postponed Elections and Referendums (Coronavirus) and
Policy Development Grants (Amendment) Regulations 2020**

Made - - - - at 12.33 p.m. on 1st September 2020

Laid before Parliament at 2.45 p.m. on 1st September 2020

Coming into force in accordance with regulation 1

The Minister for the Cabinet Office makes the following Regulations in exercise of the powers conferred by section 12(6) of the Political Parties, Elections and Referendums Act 2000^(a) and section 63 of the Coronavirus Act 2020^(b).

The Regulations, so far as made under section 12(6) of the Political Parties, Elections and Referendums Act 2000, give effect to the recommendations submitted to the Minister by the Electoral Commission in accordance with section 12(5) of that Act for variations to the scheme for the making by the Commission of policy development grants.

PART 1

Introductory

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Postponed Elections and Referendums (Coronavirus) and Policy Development Grants (Amendment) Regulations 2020.

(2) They come into force on the 21st day after the day on which they are laid before Parliament, except for Part 3 which comes into force on 6th March 2021.

(3) This Part (so far as it relates to provision made by Part 2) and Part 2 extend to England and Wales only.

(4) Chapters 1 and 2 of Part 2 apply to England only.

^(a) 2000 c. 41. See section 159A for the meaning of “the Secretary of State”.

^(b) 2020 c. 7.

PART 2

Provision relating to polls postponed due to coronavirus

CHAPTER 1

Postal ballots

Application and interpretation of Chapter 1

2.—(1) Regulations 3 to 5 apply to the following elections or referendums in the circumstances described in paragraph (2)—

- (a) the election of a councillor for any local government area in England to fill a casual vacancy;
- (b) a referendum, the poll for which is conducted in accordance with Schedule 3 or 5 to the 2012 Regulations (neighbourhood planning referendums).

(2) The circumstances referred to in paragraph (1) are where—

- (a) a notice of election or (as the case may be) notice of the referendum was required to be published on or before 6th April 2020, and
- (b) the poll for that election or referendum was not held on the date required to be stated in that notice as a result of the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020(a).

(3) In this Chapter—

“the 1983 Act” means the Representation of the People Act 1983(b);

“the 2012 Regulations” means the Neighbourhood Planning (Referendums) Regulations 2012(c);

“principal area” has the same meaning as in section 270(1) of the Local Government Act 1972(d) and includes the area council for the Isles of Scilly;

“relevant by-election” means an election to which regulations 3 to 5 apply (by virtue of paragraphs (1) and (2) of this regulation);

“relevant referendum” means a referendum to which regulations 3 to 5 apply (by virtue of paragraphs (1) and (2) of this regulation);

“relevant registration officer”—

(a) in the case of a relevant by-election—

- (i) where the election was for a councillor to fill a casual vacancy in the office of councillor for any principal area in England, has the meaning given by rule 52(2) of Schedule 2 or (as the case may be) rule 52(3) of Schedule 3 to the Local Elections (Principal Areas) (England and Wales) Rules 2006(e);
- (ii) where the election was for a councillor to fill a casual vacancy in the office of parish councillor, has the meaning given by rule 52(2) of Schedule 2 or (as the case may be) rule 52(3) of Schedule 3 to the Local Elections (Parishes and Communities) (England and Wales) Rules 2006(f);

(b) in the case of a relevant referendum, has the meaning given by rule 2 of Schedule 3 or (as the case may be) rule 2 of Schedule 5 to the 2012 Regulations;

(a) S.I. 2020/395.

(b) 1983 c. 2.

(c) S.I. 2012/2031; relevant amending instruments are S.I. 2013/798, 2014/333.

(d) 1972 c. 70; section 270(1) was amended by the Local Government Act 1985 (c. 51), Schedule 16, paragraph 8.

(e) S.I. 2006/3304, to which there are amendments not relevant to these Regulations.

(f) S.I. 2006/3305, to which there are amendments not relevant to these Regulations.

- (c) in the case of a referendum to which regulation 6 applies, means a business registration officer within the meaning of paragraph 1 of Schedule 6 to the 2012 Regulations.
- (4) In this Chapter, “the 2001 Regulations” means the Representation of the People (England and Wales) Regulations 2001(a); and references to provisions of the 2001 Regulations are—
 - (a) in relation to a relevant referendum the poll for which was not due to be taken together with the poll for a relevant by-election or relevant referendum, to those provisions as applied by regulation 8 of, and Schedule 4 to, the 2012 Regulations;
 - (b) in relation to a relevant referendum the poll for which was due to be taken together with the poll for a relevant by-election or another relevant referendum, to those provisions as applied by regulation 12 of, and Schedule 4 to, the 2012 Regulations;
 - (c) in relation to a relevant by-election the poll for which was due to be taken together with the poll for a relevant referendum, to those provisions as applied by regulation 13 of, and Schedule 4 to, the 2012 Regulations.
- (5) In paragraph (1), “local government area” has the same meaning as in section 203(1) of the 1983 Act(b).

Postal ballots: general

- 3.—(1) A postal ballot paper which was returned by a postal voter has no effect for the purpose of the postponed poll.
- (2) The fact that a postal voter cast a postal ballot paper in respect of a relevant by-election or relevant referendum does not of itself prevent that person from doing so in respect of the postponed poll.
- (3) In paragraphs (1) and (2), “postponed poll”, in relation to a relevant by-election or relevant referendum, means the poll which is to be held on the date, or within the period, specified by regulations under section 61 of the Coronavirus Act 2020(c).
- (4) Where any list has been created under regulation 87 of the 2001 Regulations, regulation 61C of those Regulations (notification of rejected postal voting statement) does not apply in respect of an absent voter who appears on that list.
- (5) Regulation 84A of the 2001 Regulations (confirming receipt of postal voting statements) does not apply.

Postal ballots: disposal of documents by the returning or counting officer

- 4.—(1) The returning officer for a relevant by-election or the counting officer for a relevant referendum—
- (a) subject to paragraph (2), must not take any step or further step to open a covering envelope, or deal with the contents of an opened relevant envelope, in accordance with Part 5 of the 2001 Regulations;
 - (b) must treat as if it were a counted ballot paper—
 - (i) any unopened covering envelope;
 - (ii) the contents of any opened relevant envelope;
 - (iii) any contents of the postal ballot box.
- (2) Where the polls for one or more relevant by-elections or relevant referendums were due to be taken together—

(a) S.I. 2001/341; relevant amending instruments are S.I. 2006/752, 2910, 2013/3198.
 (b) Section 203(1) was amended by the Representation of the People Act 1985 (c. 51), Schedule 4, paragraph 71, the Local Government Act 1985 (c. 51), Schedule 9, Part 1, the Education Reform Act 1988 (c. 40), Schedule 13, Part 1, and the Greater London Authority Act 1999 (c. 29), Schedule 3, paragraphs 1 and 39.
 (c) See S.I. 2020/395.

- (a) the returning officer or counting officer may open any covering envelopes or ballot paper envelopes in order to separate the contents by election or referendum for the purposes of paragraph (4);
 - (b) the requirements of Part 5 of the 2001 Regulations do not apply to any such opening of envelopes.
- (3) In paragraph (1), “opened relevant envelope” means—
- (a) a covering envelope that has been opened, or
 - (b) an envelope (other than a covering envelope) which is received by the returning officer or counting officer and which, when opened, contains a ballot paper envelope, postal voting statement or ballot paper.
- (4) The returning officer or counting officer—
- (a) must seal up in packets—
 - (i) any contents of the receptacle for rejected votes;
 - (ii) any contents of the receptacle for ballot paper envelopes;
 - (iii) any contents of the receptacle for rejected ballot paper envelopes;
 - (iv) any lists of spoilt, lost or cancelled postal ballot papers kept in accordance with regulation 77(8), 78(4) or 78A(3) of the 2001 Regulations respectively;
 - (v) any contents of the receptacle for rejected votes (verification procedure);
 - (vi) any contents of the receptacle for postal voting statements (verification procedure);
 - (vii) anything treated as if it were a counted ballot paper under paragraph (1)(b) which would not otherwise be contained in a packet in accordance with paragraphs (i) to (vi);
 - (viii) the marked copies of the postal voters list and the proxy postal voters list;
 - (b) must forward those packets to the relevant registration officer, together with—
 - (i) any sealed packets described in regulations 75(1), 77(6), 78(2C) and 78A(2)(c) of the 2001 Regulations (completed corresponding number lists and spoilt, lost and cancelled postal ballot papers);
 - (ii) any list required to be compiled in accordance with regulation 87(4) of the 2001 Regulations (lists of rejected ballot papers).
- (5) The returning officer or counting officer must endorse each packet described in paragraph (4) with—
- (a) a description of its contents;
 - (b) the date of the poll for the relevant by-election or relevant referendum;
 - (c) in the case of a relevant by-election, the name of the electoral area (or areas) to which the relevant by-election relates;
 - (d) in the case of a relevant referendum, the name of the relevant council.
- (6) Subsection (4) or (5), as the case may be, of section 36 of the 1983 Act (local elections in England and Wales: payment of expenditure)(a) applies to all expenditure properly incurred by a returning officer or counting officer in relation to the exercise of the officer’s functions under this regulation as it applies to expenditure properly incurred in relation to the holding of an election or referendum.
- (7) In paragraph (6), the reference to subsection (4) or (5) of section 36 of the 1983 Act in relation to—

(a) Section 36(4) and (5) was amended by the Representation of the People Act 1985 (c. 50), Schedule 17; by the Local Government (Wales) Act 1994 (c. 19), Schedule 16, paragraph 68(9) and (10); and by S.I. 1991/1730.

- (a) a relevant referendum the poll for which was not due to be taken together with the poll for a relevant by-election or relevant referendum, is to that subsection as applied by regulation 8 of, and Schedule 4 to, the 2012 Regulations;
 - (b) a relevant referendum the poll for which was due to be taken together with the poll for a relevant by-election or another relevant referendum, is to that subsection as applied by regulation 12 of, and Schedule 4 to, the 2012 Regulations;
 - (c) a relevant by-election the poll for which was due to be taken together with the poll for a relevant referendum, is to that subsection as applied by regulation 13 of, and Schedule 4 to, the 2012 Regulations.
- (8) In this regulation—
- “ballot paper envelope”, “covering envelope”, “postal voter”, “receptacle for ballot paper envelopes” and other references to specified receptacles have the same meanings as in Part 5 of the 2001 Regulations;
 - “counting officer” has the same meaning as in the 2012 Regulations;
 - “electoral area” has the same meaning as in section 203(1) of the 1983 Act;
 - “postal voters list” and “proxy postal voters list” have the same meaning as in section 202(1) of the 1983 Act^(a);
 - “relevant council” has the same meaning as in paragraph 14(3) of Schedule 4B to the Town and Country Planning Act 1990^(b).

Postal ballots: retention, production and destruction of documents by the relevant registration officer

- 5.—(1) The relevant registration officer must—
- (a) retain the documents forwarded to the officer in accordance with regulation 4(4) for the period of one year, and
 - (b) after that period, cause those documents to be destroyed, unless otherwise directed by an order of a county court, a Crown Court or a magistrates’ court.
- (2) A person must not be allowed to inspect any of the documents described in regulation 4(4)(a)(i) to (iii) and (v) to (vii) and (b)(ii) in the possession of the relevant registration officer, except in accordance with an order made by a court for the inspection or production of any document for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers.
- (3) The following provisions apply to an order described in paragraph (2) as they apply to an order under the rule to which those provisions relate, reading references in those provisions to counted ballot papers as references to the documents described in regulation 4(4)(a)(i) to (iii) and (v) to (vii) and (b)(ii)—
- (a) in respect of a relevant by-election—
 - (i) where the election was for a councillor to fill a casual vacancy in the office of councillor for any principal area in England, paragraphs (3) to (7) of rule 53 of Schedule 2 or (as the case may be) of Schedule 3 to the Local Elections (Principal Areas) (England and Wales) Rules 2006;
 - (ii) where the election was for a councillor to fill a casual vacancy in the office of parish councillor, paragraphs (3) to (7) of rule 53 of Schedule 2 or (as the case may be) of Schedule 3 to the Local Elections (Parishes and Communities) (England and Wales) Rules 2006;
 - (b) in respect of a relevant referendum, paragraphs (3) to (8) of rule 46 of Schedule 3 or (as the case may be) of Schedule 5 to the 2012 Regulations.

(a) Section 202(1) was amended by the Electoral Administration Act 2006 (c. 22), Schedule 1, paragraph 128.
 (b) 1990 c. 8; Schedule 4B was inserted by the Localism Act 2011 (c. 20), Schedule 10.

(4) Section 176 of the 1983 Act (time limit for prosecutions)(a) applies in respect of documents retained by the relevant registration officer under paragraph (1) as if—

- (a) in subsection (2C), the reference to rule 57 of the parliamentary elections rules were a reference to paragraph (1);
- (b) in subsection (2D)(a) the reference to rule 57 were a reference to paragraph (1).

(5) In paragraph (4), references to section 176 of the 1983 Act in relation to—

- (a) a relevant referendum the poll for which was not due to be taken together with the poll for a relevant by-election or relevant referendum, are to that section as applied by regulation 8 of, and Schedule 4 to, the 2012 Regulations;
- (b) a relevant referendum the poll for which was due to be taken together with the poll for a relevant by-election or another relevant referendum, are to that section as applied by regulation 12 of, and Schedule 4 to, the 2012 Regulations;
- (c) a relevant by-election the poll for which was due to be taken together with the poll for a relevant referendum, are to that section as applied by regulation 13 of, and Schedule 4 to, the 2012 Regulations.

(6) Section 54 of the 1983 Act (payments of expenses of registration)(b) applies to the exercise of functions of the relevant registration officer under this regulation as it applies to the exercise of functions of the registration officer under the 1983 Act.

Application of regulations 3 to 5 to business referendums

6.—(1) This regulation applies to a referendum, the poll for which was to be conducted in accordance with Schedule 7 to the 2012 Regulations (the business referendums rules), where—

- (a) a notice of the referendum was required to be published on or before 6th April 2020, and
- (b) the poll for that referendum was not held on the date required to be stated in that notice as a result of the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020.

(2) Regulations 3 to 5 apply to a referendum to which this regulation applies as they apply to a relevant referendum, subject to the following modifications.

(3) Regulation 3(5) is to be read as if the reference to regulation 84A of the 2001 Regulations were a reference to rule 33 of Part 5 of Schedule 7 to the 2012 Regulations.

(4) Regulation 4 is to be read as if—

- (a) a reference to Part 5 of the 2001 Regulations were a reference to Part 5 of Schedule 7 to the 2012 Regulations;
- (b) in paragraph (1)(b)(iii), at the end there were inserted “referred to in rule 29(1)(b) of Schedule 7 to the 2012 Regulations”;
- (c) in paragraph (4)—
 - (i) in sub-paragraph (a)—
 - (aa) in paragraph (iv), the reference to regulation 77(8), 78(4) or 78A(3) of the 2001 Regulations were a reference to rule 25(7), 26(9) or 24(5) of Schedule 7 to the 2012 Regulations;
 - (bb) in paragraphs (v) and (vi), for “(verification procedure)” there were substituted “after verification procedure”;
 - (cc) for paragraph (viii) there were substituted—

(a) Section 176 was amended by the Representation of the People Act 1985 (c. 50), sections 24 and 28, Schedule 4, paragraph 61 and Schedule 5.

(b) Section 54 was amended by the Representation of the People Act 1985, Schedule 4, paragraph 14; and by the Electoral Administration Act 2013 (c. 22), Schedule 4, paragraphs 1 and 17.

- “(viii) any copy of the business voting register marked in accordance with rule 20(2) of Schedule 7 to the 2012 Regulations;”;
 - (ii) in sub-paragraph (b)—
 - (aa) in paragraph (i), the reference to regulations 75(1), 77(6), 78(2C) and 78A(2)(c) of the 2001 Regulations were a reference to rules 22(1), 24(1) and (3), 25(6), 26(8) and 32(10) of Schedule 7 to the 2012 Regulations;
 - (bb) paragraph (ii) were omitted;
 - (d) in paragraph (5), for sub-paragraph (d) there were substituted—
 - “(d) the words “neighbourhood planning business referendum” and the name of the neighbourhood area to which the business referendum relates.”;
 - (e) in paragraph (6), “or (5), as the case may be,” were omitted;
 - (f) for paragraph (7) there were substituted—
 - “(7) In paragraph (6), the reference to subsection (4) of section 36 of the 1983 Act is to that section as applied by regulation 17(5) of, and Schedule 8 to, the 2012 Regulations.”;
 - (g) in paragraph (8), the definitions of “electoral area”, “postal voters list”, “proxy postal voters list” and “relevant council” were omitted.
- (5) Regulation 5 is to be read as if—
- (a) in paragraph (2), “and (b)(ii)” were omitted;
 - (b) for paragraph (3) there were substituted—
 - “(3) Paragraphs (2) to (8) of rule 72 of Schedule 7 to the 2012 Regulations apply to an order described in paragraph (2) as they apply to an order under rule 72, subject to the modification that a reference in those paragraphs to counted ballot papers is to be read as if it were a reference to the documents described in regulation 4(4)(a)(i) to (iii) and (v) to (vii).”;
 - (c) for paragraph (5) there were substituted—
 - “(5) In paragraph (4), references to section 176 of the 1983 Act are to that section as applied by regulation 17(5) of, and Schedule 8 to, the 2012 Regulations.”;
 - (d) after paragraph (6) there were inserted—
 - “(7) In paragraph (6), the reference to section 54 of the 1983 Act is to that section as applied by regulation 17(5) of, and Schedule 8 to, the 2012 Regulations.”.

CHAPTER 2

Candidates

Interpretation of Chapter 2

7. In this Chapter—

- “the 1983 Act” and “relevant by-election” have the same meanings as in Chapter 1;
- “the 2020 Act” means the Coronavirus Act 2020;
- “candidate” has the meaning given by section 118A of the 1983 Act(a).

Candidates: Mayor of London and London Assembly election and local councillor by-elections

8.—(1) This regulation applies to the following (“a relevant election”)—

(a) Section 118A was inserted by the Political Parties, Elections and Referendums Act 2000 (c. 41), section 135.

- (a) the ordinary election under section 3(2) of the Greater London Authority Act 1999 (election of Mayor of London and London Assembly)(a), the poll for which was due to be held on 7th May 2020 but was not so held as a result of section 60 of the 2020 Act;
- (b) a relevant by-election to fill a vacancy in the office of councillor for any principal area in England.

(2) A person (“P”) who became a candidate at a relevant election on or before 6th April 2020 is no longer a candidate, and is treated as not having been a candidate before the coming into force of this regulation.

(3) A person (including P) is not liable in respect of any act or omission (whenever occurring), in relation to P’s candidacy at a relevant election before the coming into force of this regulation (disregarding paragraph (2)), under—

- (a) section 71A of, and Schedule 2A to, the 1983 Act (control of donations to candidates)(b);
- (b) sections 73 to 90D of the 1983 Act (provisions about candidate election expenses)(c).

(4) Paragraphs (5) to (7) apply in relation to a donation which would have fallen to be included in a return as to election expenses in respect of P in accordance with Part 3 of Schedule 2A to the 1983 Act if the relevant election had taken place before the coming into force of this regulation (disregarding paragraph (2)).

(5) For the purposes of paragraph 4(3)(a) of Schedule 7 to the 2000 Act (donations: disregard for candidate donations) a donation to which this paragraph applies is not to be treated as falling to be included in a return as to election expenses in respect of P.

(6) Where a regulated donee is required to take action in respect of a donation to which this paragraph applies under section 56(2) of the 2000 Act (acceptance or return of donations)(d), as applied by paragraph 8 of Schedule 7 to that Act(e), that provision is to be read as if it required that action to be taken by 30th November 2020 (instead of within the period specified in the provision).

(a) 1999 c. 29.

(b) Section 71A was inserted by the Political Parties, Elections and Referendums Act 2000 (“the 2000 Act”), section 130. Schedule 2A was inserted by the 2000 Act, Schedule 16.

(c) Sections 73 and 74 were amended by the Representation of the People Act 1985 (“RPA 1985”), section 14; by the Greater London Authority Act 1999 (c. 29) (“GLAA 1999”), Schedule 3, paragraphs 1, 17 and 18; by the 2000 Act, Schedule 18, paragraphs 1, 3 and 4; and section 73 was also amended by the Electoral Administration Act 2006 (c. 22) (“EAA 2006”), Schedule 1, paragraphs 104, 111 and 133. Section 74A was inserted by the 2000 Act, Schedule 18 paragraphs 1 and 5, and was amended by EAA 2006, Schedule 1, paragraphs 104, 112 and 133. Section 75 was amended by RPA 1985, Schedule 4, paragraph 24; by GLAA 1999, Schedule 3 paragraphs 1 and 19; by the 2000 Act, section 131; by EAA 2006, section 25 and Schedule 1, paragraphs 104 and 113; and by the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (c. 4) (“the 2014 Act”), section 36(1). Sections 75ZA and 75ZB were inserted by the 2014 Act, section 36(2). Section 76 was amended by RPA 1985, Schedule 4, paragraph 25; by the Local Government Act 1985 (c. 51), Schedule 17; by the Education Reform Act 1988 (c. 40), Schedule 13, Part 1; by the Representation of the People Act 1989 (c. 28), section 6(1); by GLAA 1999, Schedule 3, paragraphs 1 and 20; by the Representation of the People Act 2000 (c. 2), Schedule 1, paragraphs 1 and 18; by the 2000 Act, section 132; by EAA 2006, Schedule 1, paragraphs 69 and 71; by the 2014 Act, section 37(1), and by S.I. 2014/1870. Section 76ZA was inserted by the Political Parties and Elections Act 2009 (c. 12) (“PPE 2009”), section 21(1), and was amended by the Fixed-term Parliaments Act 2011 (c. 14), Schedule, paragraphs 6 and 7, and by S.I. 2014/1870. Section 76A was inserted by RPA 1985, section 14, and was amended by the 2000 Act, section 133(1), and by PPE 2009, Schedule 6, paragraph 6. Section 77 was amended by GLAA 1999, Schedule 3, paragraphs 1 and 22. Sections 78 and 79 were amended by RPA 1985, Schedule 4, paragraph 26; by the 2000 Act, Schedule 18, paragraphs 1, 6 and 18, and section 78 was also amended by the Crime and Courts Act 2013 (c. 22), Schedule 9, paragraph 52(1)(b) and (2). Sections 81, 82 and 85 were amended by RPA 1985, Schedule 4, paragraphs 27 to 29; by GLAA 1999, Schedule 3, paragraphs 1 and 23 to 25; and by the 2000 Act, Schedule 18, paragraphs 1, 7, 8 and 19, and section 81 was also amended by EAA 2006, section 26 and Schedule 1, paragraphs 104, 114 and 133. Section 85A was inserted by GLAA 1999, Schedule 3, paragraphs 1 and 26. Section 86 was amended by RPA 1985, Schedule 4, paragraph 30; by the 2000 Act, Schedule 18, paragraphs 1 and 18; by the Legal Services Act 2007 (c. 29), Schedule 21, paragraphs 48 and 49, and by the Crime and Courts Act 2013, Schedule 9, paragraph 52. Section 87 was amended by RPA 1985, Schedule 4, paragraph 31, and by S.I. 2015/664. Section 87A was inserted by the 2000 Act, Schedule 18, paragraphs 1 and 9. Section 88 was amended by RPA 1985, Schedule 4, paragraph 32, and by GLAA 1999, Schedule 3, paragraphs 1 and 27. Section 89 was amended by RPA 1985, Schedule 4, paragraph 33; by the 2000 Act, Schedule 18, paragraphs 1 and 10; and by EAA 2006, Schedule 1, paragraphs 104 and 115. Section 90 was amended by the 2000 Act, Schedule 18, paragraphs 1 and 11, and by EAA 2006, Schedule 1, paragraphs 104 and 116. Section 90ZA was inserted by EAA 2006, section 27(1) and (2), and was amended by PPE 2009, Schedule 6, paragraph 7. Sections 90A to 90D were inserted by the 2000 Act, section 134. Sections 90A and 90B were repealed by EAA 2006, section 27(1), (3) and (4). Sections 90C and 90D were amended by EAA 2006, Schedule 1, paragraphs 104, 117, 118 and 133.

(d) Section 56 was amended by PPE 2009, sections 9, 10 and 12, and Schedule 6, paragraph 14, and by S.I. 2007/2501.

(e) Paragraph 8 was amended by PPE 2009, Schedule 4, paragraph 2 and Schedule 6, paragraph 28.

(7) Where, in relation to a donation to which this paragraph applies, a regulated donee is required to prepare a report under paragraph 10(1) or 11(1)(a) of Schedule 7 to the 2000 Act (donation reports: permissible and impermissible donors)(a), paragraph 10(2) or 11(1)(b) (as the case may be) of that Schedule(b) is to be read as if it required the report to be delivered to the Electoral Commission by 30th November 2020 (instead of within the period specified in the provision).

(8) A person is not liable for any failure to comply with a requirement referred to in paragraph (6) or (7) between the time for compliance set out in relation to the requirement (prior to the modifications made by paragraphs (6) and (7) taking effect) and the coming into force of this regulation.

(9) Nothing in this regulation affects whether P is a candidate in respect of the postponed poll for the relevant election or any requirements which would apply in relation to P as a candidate in respect of that poll.

(10) For the purposes of paragraph (9), the reference to the postponed poll for a relevant election is a reference to the poll—

- (a) the date for which is fixed by section 60 of the 2020 Act, or
- (b) to be held on the date, or within the period, specified by regulations under section 61 of that Act.

(11) In this regulation—

“the 2000 Act” means the Political Parties, Elections and Referendums Act 2000;

“principal area” has the same meaning as in Chapter 1.

Candidates: parish council by-elections

9.—(1) A person (“P”) who became a candidate at a relevant by-election to fill a casual vacancy in the office of parish councillor on or before 6th April 2020 is no longer a candidate, and is treated as not having been a candidate before the coming into force of this regulation.

(2) Nothing in paragraph (1) affects whether or not P is a candidate at the postponed poll for such an election.

(3) For the purposes of paragraph (2), the reference to the postponed poll is a reference to the poll to be held on the date, or within the period, specified by regulations under section 61 of the 2020 Act.

(4) A person (including P) is not liable in respect of any act or omission (whenever occurring), in relation to P’s candidacy before the coming into force of this regulation (disregarding paragraph (1)), under sections 76 to 77 and 90C of, and Schedule 4 to, the 1983 Act (election expenses at certain local elections)(c), as applied by section 90 of that Act.

CHAPTER 3

Police and crime commissioner elections

Police and crime commissioner elections: returning officer expenses

10.—(1) A returning officer for a relevant PCC election may recover charges in respect of expenses incurred for or in connection with that election, notwithstanding that the election was not held, if the expenses were necessarily incurred for the efficient and effective conduct of the election.

(2) The amount of any charges recoverable under paragraph (1) is to be paid by the Minister on an account being submitted to the Minister.

(a) Paragraph 10(1) was amended by EAA 2006, Schedule 1, paragraphs 138 and 154, and by PPE 2009, Schedule 3, paragraph 2. Paragraph 11(1) was amended by PPE 2009, Schedule 3, paragraph 3.

(b) Paragraph 10(2) was amended by PPE 2009, section 20.

(c) Schedule 4 was amended by the Representation of the People Act 1985, section 14(6) and Schedule 4, paragraph 89; by the Political Parties, Elections and Referendums Act 2000, Schedule 18, paragraphs 1 and 17, and by the Crime and Courts Act 2012, Schedule 9, paragraph 51(1)(b) and (2).

(3) The Police and Crime Commissioner Elections (Returning Officers' Accounts) Regulations 2012^(a) have effect for the purposes of an account submitted under paragraph (2) as if they were subject to the following modifications—

- (a) in regulation 2 (interpretation), the definition of “account” is to be read as referring to an account prepared by a returning officer under paragraph (2) of this regulation;
- (b) in regulation 4 (time for submission of accounts), for the words from “within the period” to the end substitute “on or before 24th March 2021”;
- (c) omit regulation 5 (incomplete accounts);
- (d) in regulation 7(2) (form of accounts), for the words from “at the time of” to the end substitute “on 7th May 2020”.

(4) Any sums required by the Minister for making payments under this regulation are to be charged on, and paid out of, the Consolidated Fund.

(5) Section 55 of the 2011 Act (returning officers: expenditure)^(b) does not apply in respect of any charges recoverable under paragraph (1) of this regulation.

(6) Nothing in this regulation applies to the postponed ordinary election, that is to say the election which is to be held in 2021 as a result of section 60(12) of the Coronavirus Act 2020.

(7) In this regulation—

“the 2011 Act” means the Police Reform and Social Responsibility Act 2011;

“the Minister” means the Secretary of State or the Minister for the Cabinet Office;

“relevant PCC election” means the ordinary election of a police and crime commissioner which was due to be held in 2020, pursuant to section 50(1) of the 2011 Act (ordinary elections), but was not so held as a result of section 60(12) of the 2020 Act;

“returning officer” has the meaning given by section 55(12) of the 2011 Act.

PART 3

Policy development grants

Amendments to the policy development grants scheme

11.—(1) The Schedule to the Elections (Policy Development Grants Scheme) Order 2006^(c) is amended as follows.

(2) In paragraph 1(2)—

- (a) in the definition of “relevant register” for “1st February” substitute “2nd February”;
- (b) in the definition of “UK electorate”—
 - (i) for “2018” substitute “2022”;
 - (ii) for “7th March” substitute “31st March”.

(3) In paragraph 6(2)—

- (a) in the opening words for “2018” substitute “2022”;
- (b) for “7th March”, in each place it occurs, substitute “31st March”.

^(a) S.I. 2012/2088, amended by S.I. 2016/488.

^(b) 2011 c. 13; section 55 was amended by S.I. 2015/1526 and 2016/997.

^(c) S.I. 2006/602, amended by S.I. 2014/556, 2015/128, 302, 2016/164, 2017/109, 2018/127, 2020/139 and 385.

(4) The amendments made by paragraphs (2) and (3) have effect for the purpose of the making by the Electoral Commission of policy development grants on or after 1st April 2021.

Chloe Smith

Minister for the Constitution and Devolution
Cabinet Office

At 12.33 p.m. on 1st September 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the postponement of certain elections and referendums in 2020 due to the Covid-19 pandemic (Part 2), and amending the scheme for policy development grants (Part 3).

Part 2 makes provision in connection with the postponement of certain elections and referendums, including elections which were due to be held on 7th May 2020, and local government by-elections and local referendums which were due to take place before 7th April 2020, but which weren't held as a result of the Coronavirus Act 2020 (c. 7).

Chapter 1 of Part 2 makes provision about postal ballots which had already been cast at any relevant by-election or referendum. Regulation 3 provides that any postal ballot cast is not to count for the purposes of the postponed poll which will take place at a later date, and that the postal voter is not prevented from casting another postal ballot at that postponed poll. It also provides that other actions do not need to take place. Regulation 4 deals with how the returning officer (or counting officer in the case of a neighbourhood planning referendum) has to deal with the documentation which may have been created in advance of the poll, including forwarding it to the registration officer. Regulation 5 requires the registration officer to retain the documents for a year before destroying them (subject to a court order). It also makes provision about court orders for access to those documents in respect of a prosecution. Regulation 6 makes equivalent provision (to regulations 3 to 5) for business referendums (which are subject to separate legislation).

Chapter 2 makes provision in relation to people who were candidates, specifically about expenses and donations. Regulation 8 applies to the elections for the Greater London Assembly and the Mayor of London and to by-elections for principal areas. It provides that a person who had become a candidate is no longer a candidate and treated generally as not having been one. The effects of this include that the person is not required to complete certain returns relating to candidate expenses and donations under the Representation of the People Act 1983 (c. 2). Certain donations to regulated donees instead fall to be dealt with under the rules in the Political Parties, Elections and Referendums Act 2000 (c. 41), although the deadlines for complying with those rules are extended. Regulation 9 applies to parish council by-elections and provides that people who were candidates are not treated as candidates and makes related provision.

Chapter 3 deals with the police and crime commissioner elections which did not take place in May 2020. Regulation 10 makes provision ensuring that returning officers can recover costs incurred. Accounts must be submitted to the Minister in accordance with the Police and Crime Commissioner Elections (Returning Officers' Accounts) Regulations 2012 (S.I. 2012/2088), as modified by regulation 10(3).

Regulation 11, in Part 3, amends the Policy Development Grants Scheme as set out in the Schedule to the Elections (Policy Development Grants Scheme) Order 2006 (S.I. 2006/602). Regulation 11(2) enables the Electoral Commission to use the most up-to-date electoral registers when attributing amounts between England, Northern Ireland, Scotland and Wales for the purposes of allocating policy development grants to political parties, even where the deadline for

publication of revised electoral registers is delayed to 1st February. Regulation 11(3) changes the date by which the Commission must publish (for the purposes of the attribution between England, Northern Ireland, Scotland and Wales) the numbers of people entitled to vote in each of those countries.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.